



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 20, 1998

Mr. Miles T. Bradshaw
Assistant General Counsel
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

OR98-0177

Dear Mr. Bradshaw:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111612.

The Houston Independent School District ("HISD") received two separate requests for copies of (1) Parent complaints/Petitions filed with TEA and/or any court of law in special education due process hearings or special education litigation under the Individuals with Disabilities Act ("IDA"); and (2) Any settlement agreements which resulted from such hearings and/or litigation. However, HISD claims the documents are excepted from disclosure under sections 552.026, 552.101, and 552.114 of the Government Code. Additionally, we observe that you are simultaneously requesting an opinion from the Family Policy compliance Office of the U.S. Department of Education. We have considered the exceptions you claim and reviewed the submitted information.

The records present an issue in dispute: whether the records are in fact protected from disclosure as "education records" under the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, or section 552.114 of the Government Code. "Education records" are records that

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

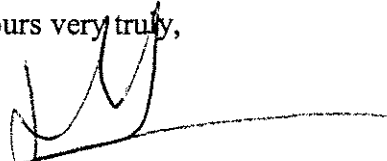
20 U.S.C. § 1232g(a)(4)(A); *see* Open Records Decision Nos. 462 (1987), 447 (1986).

We observe that section 552.114 applies to student records. However, when asked about the required public disclosure of student records, this office generally addresses Government Code section 552.026 and the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 5 U.S.C. § 1232g. Section 552.026 incorporates FERPA into the Open Records Act. FERPA prohibits, in most circumstances, the release of student records without a parent's written consent. 20 U.S.C. § 1232g(b)(1). "Education records" for purposes of FERPA are records that contain information directly related to a student and that are maintained by an educational institution or agency. *Id.* § 1232g(a)(5)(B). FERPA protects "personally identifiable information in education records. *See id.* § 1232(b)(2). "Personally identifiable" information means the student's identity would be "easily traceable." *See* Open Records Decision No. 165 (1977). Thus, section 552.026 does not except all information in an education record, but only that information which identifies the student or the student's parents. Open Records Decision No. 332 (1982) at 3.

Consequently, we agree that HISD must not release portions of the information that identify HISD students, parents and former students. *See* Open Records Decision No. 539 (1990). We generally agree with your markings, but note that you should redact the entire name yet not withhold the entire record, as information must be withheld under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978).¹ We also note that in some cases, the content of a statement could make the identity of a student easily traceable. Thus, the school district may withhold more than just the names in the pleadings, settlement agreements and other information that could make the identity of a student easily traceable.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

¹This office has determined that an educational agency or institution may withhold from public disclosure personally identifiable nondirectory information in "education records" as defined in FERPA, which information is excepted from required public disclosure by Government Code section 552.026, without the necessity of requesting an attorney general decision as to that exception. *See* Open Records Decision No. 634 (1995).

JIM/glg

Ref.: ID# 111612

Enclosures: Submitted documents